THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11439 OF 2001

ORDER:

A.P.State Road Transport Corporation (RTC, for brevity) and its Regional Manager, Srikakulam are the petitioners. They are aggrieved by order dated 12.04.2001 in A.P.No.470 of 1999 passed by the first respondent herein reversing the order of the second respondent dated 26.07.1999 and directing the second respondent to grant permit to the third respondent for running a stage carriage vehicle on the mofussil route Nelavanka to Adivaram Santha (hereafter called, the subject route) via Markapuram, Parriputtuga, B.Ganapaputtuga, Borivanka, Kaviti, Ramaiahputtuga and Kapasakuddi. The petitioners seek a writ of certiorari quashing the order of the first respondent.

The fact of the matter is not much in dispute. The third respondent applied to the second respondent for grant of pucca stage carriage permit to the subject route. The same was opposed by the second petitioner on the ground that in the absence of any specific route notified by the Government of Andhra Pradesh under Section 68(3) (ca) of the Motor Vehicles Act, 1988 (the Act, for short), the third respondent cannot be granted permit and that RTC is running its services between Sompeta and Nelavanka and if permit is granted to third respondent, the earnings of the RTC would fall. It was also urged by the RTC that the permit applied for would impinge on the notified scheme vide G.O.Ms.No.1066, dated 09.11.1987, as the proposed route overlaps the approved scheme. By order, dated 26.07.1999, the second respondent agreed with the objections raised by the RTC and accordingly rejected the application of the third respondent.

The State Transport Appellate Tribunal, first respondent herein, before whom the third respondent preferred appeal being A.P.No.470 of 1999, however, came to the conclusion that there would not be any overlapping of the route applied for by the third respondent with the scheme approved in G.O.Ms.No.1066, dated 09.11.1987, and that the route in question is an existing route. Accordingly, the appeal was allowed and the second respondent was directed to issue permit to the third respondent.

The third respondent filed counter affidavit opposing the writ petition. It is alleged that the route Nelavanka to Adivaram Santha is an existing route and that in the year 1994, one pucca stage carriage permit was granted to Sri B.Jaya Prakash Narayana, who is plying a bus bearing No.AP 30 T-5279, under permit No.11/SKL/1994. Therefore, Section 68(3) (ca) of the Act has no application to the facts of the present case. Secondly, it is alleged that the route applied for does not overlap the notified route approved in G.O.Ms.No.605, dated 19.05.1975 nor the

notified route approved in G.O.Ms.No.1160, dated 09.11.1987. It is also stated that the petitioners did not rely on these notifications before the second respondent or the first respondent, and therefore they cannot be allowed to raise the objection before this Court.

The learned standing counsel for APSRTC, Sri K.Srinivasa Rao, submits that there is no notified route and therefore if any permit is granted, it would violate Section 68(3) (ca) of the Act. Reliance is placed on the judgment of this Court in **T.Penchala Naidu v S.T.A.T., Hyderabad**. Secondly, the learned counsel submits that the route applied for overlaps the route Visakhapatnam – Ichapuram, which was approved in G.O.Ms.No.605, dated 19.05.1975, and in view of total prohibition for grant of a new permit to private operator, grant of permit is illegal. Reliance is placed on the judgment of this Court in **Divisional Manager, APSRTC, Vizianagaram v S.T.A.T.**. **Per contra**, learned counsel for the third respondent, Sri T.Venkata Ramana, submits that as long back as on 03.06.1994, the authorities granted permit on the route Nelavanka to Adivaram Santha to Sri B.Jaya Prakash Narayana and therefore the provisions of Section 68(3) (ca) of the Act, which came into force with effect from 14.11.1994 cannot be applied to the case as held by the Division Bench of this Court in **N.Swarnalatha v Managing Director, APSRTC, Hyderabad**. Secondly, he would urge that the route for which the third respondent sought permit does not in any manner overlap the route notified in G.O.Ms.No.605, dated 19.05.1975, or any other notified route and therefore the order of the S.T.A.T is unassailable.

The RTC does not dispute or deny the fact that on 03.06.1994 itself, the second respondent issued a permit on the route Nelavanka to Adivaram Santha to another person and therefore, Section 68(3) (ca) of the Act has no application to the facts of the case. It is true that after coming into force of the said provision with effect from 14.11.1994, it is not permissible for the Regional Transport Authority to issue any permit to a stage carriage operator for any route, which is not notified by the Government under Section 68(3) (ca) of the Act. This principle is well settled and it is not necessary to refer to any authority on this. Secondly, after getting instructions from the petitioners, the learned standing counsel submits that the route for which the permit was sought does not overlap the route approved in G.O.Ms.No.605, dated 19.05.1975. Therefore, this Court finds no merit in the writ petition.

In the result, the writ petition is accordingly dismissed without any order as to costs. No costs.

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(V.V.S.RAO,J)

09.12.2005.

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